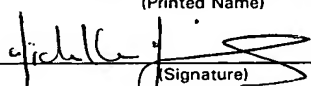




Atty. Dkt. No. 036163-0101

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Michel H. Malek  
Title: INTERVERTEBRAL DISC  
PROSTHESIS  
Appl. No.: 10/675,573  
Filing Date: 09/30/2003  
Examiner: Unknown  
Art Unit: 3738

<p><b>CERTIFICATE OF MAILING</b> I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on the date below.</p> <p><u>Michelle Manning</u> (Printed Name)</p> <p><u></u> (Signature)</p> <p><u>February 23, 2004</u> (Date of Deposit)</p>
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**INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 CFR §1.56**

Mail Stop MISSING PARTS  
Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Submitted herewith on Form PTO-1449 is a listing of documents known to Applicant in order to comply with Applicant's duty of disclosure pursuant to 37 CFR §1.56. A copy of each listed document, except as noted below, is being submitted to comply with the provisions of 37 CFR §1.97 and §1.98.

The USPTO has waived the requirement under 37 CFR 1.98(a)(2)(i) to submit copies of U.S. patents and U.S. patent application publications when citing and submitting an Information Disclosure Statements in a patent application filed after June 30, 2003 and in an international application that has entered the national stage under 37 USC §371 after June 30, 2003. Accordingly, copies of these types of documents are not being supplied in connection with this application. Reference is being made to Pre-OG Notice from Office of Patent Legal Administration dated July 25, 2003, *Information Disclosure Statements May Be Filed*

*Without Copies of U.S. Patents and Published Applications in Patent Applications filed after June 30, 2003.*

The submission of any document herewith, which is not a statutory bar, is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* art reference against the claims of the present application.

#### **TIMING OF THE DISCLOSURE**

The listed documents are being submitted in compliance with 37 CFR §1.97(b), before the mailing date of the first Office Action on the merits.

#### **RELEVANCE OF EACH DOCUMENT**

The relevance of the foreign-language documents is described in the present specification and a copy of an English language abstract is included. An English translation of the foreign-language documents is not readily available. However, the absence of such translation does not relieve the PTO from its duty to consider the submitted foreign language documents (37 CFR §1.98 and MPEP §609).

Applicant respectfully requests that any listed document be considered by the Examiner and be made of record in the present application and that an initialed copy of Form PTO-1449 be returned in accordance with MPEP §609.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 CFR §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2350. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2350.

Respectfully submitted,

Date February 23, 2004

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By \_\_\_\_\_

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Form PTO-1449  
(MODIFIED)U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

ATTY. DOCKET NO.

036163-0101

SERIAL NO.

10/675,573

APPLICANT

Michel H. Malek

FILING DATE

09/30/2003

GROUP ART UNIT

3738

OIPF  
INFORMATION DISCLOSURE CITATION

FEB 26 2004

(Use several sheets if necessary)

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB- CLASS	FILING DATE IF APPROPRIATE
		4,759,766	Jul. 26, 1988	Büettner-Janz et al.			
		4,863,476	Sep. 5, 1989	Shepperd			
		4,997,432	Mar. 5, 1991	Keller			
		5,122,130	Jun. 16, 1992	Keller			
		5,314,477	May 24, 1994	Marnay			
		5,401,269	Mar. 28, 1995	Büttner-Janz et al.			
		5,556,431	Sep. 17, 1996	Büttner-Janz			
		5,562,738	Oct. 8, 1996	Boyd et al.			
		5,645,596	Jul. 8, 1997	Kim et al.			

## FOREIGN PATENT DOCUMENTS

	REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB- CLASS	TRANSLATION	
							YES	NO
		DE 30 23 353 A1	9.4.1981	Germany				
		EP 0 560 140 B1	25.02.1993	Europe				
		WO 95/26697	12.10.1995	PCT				

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER

DATE CONSIDERED

\* EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include any copy of this form with next communication to applicant.

Form PTO-1449 (MODIFIED)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		ATTY. DOCKET NO. 036163-0101		SERIAL NO. 10/675,573	
<b>INFORMATION DISCLOSURE CITATION</b> (Use several sheets if necessary)				APPLICANT Michel H. Malek			
				FILING DATE 09/30/2003		GROUP ART UNIT 3738	
<b>U.S. PATENT DOCUMENTS</b>							
EXAMINER INITIAL	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB- CLASS	FILING DATE IF APPROPRIATE
		5,713,899	Feb. 3, 1998	Marnay et al.			
		5,882,226	Mar. 30, 1999	Rogozinski			
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